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13 *Attorneys for Petitioners*

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 VICTORIA ABARCA, et al.

18 Petitioners,

19 v.

20 LYFT, INC.,

21 Respondent.
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Case No. 3:18-cv-7502

**DECLARATION OF TOM KAYES IN
SUPPORT OF MOTION TO COMPEL
ARBITRATION**

1 I, Tom Kayes, declare based on personal knowledge as follows:

2 1. I am an associate at Keller Lenkner LLC, counsel for Petitioners in this matter.

3 2. I have personal knowledge of the facts stated herein, and if called upon as a witness,
4 I could and would testify competently thereto.

5 3. This declaration is submitted in support of Petitioners' Motion to Compel
6 Arbitration.

7 4. On September 14, 2018, Keller Lenkner informed Lyft that it planned to file
8 demands for arbitration and offered to discuss resolving the claims in an alternative manner, such
9 as through mediation. Ultimately, the parties were not able to agree on an alternative to arbitration.

10 5. Keller Lenkner submitted 3,661 individual arbitration demands to AAA on behalf
11 of Petitioners:

- 12 • (1) October 26, 2018 — 1,123 individual demands;
- 13 • (2) November 2, 2018 — 471 individual demands; and
- 14 • (3) December 7, 2018 — 2,067 individual demands

15 6. On November 8, 2018, AAA sent a letter invoicing Lyft for the filing fees necessary
16 to commence the 1,123 arbitration demands served on October 26, 2018. The letter set December
17 10, 2018 as the deadline for paying those fees.

18 7. Instead of paying the contractually required arbitration fees, on November 16,
19 2018, Lyft filed a tort lawsuit against Keller Lenkner and one of its partners, Warren Postman,
20 claiming money damages and seeking an injunction to stop Keller Lenkner from representing
21 Petitioners in their arbitrations. The lawsuit is captioned *Lyft, Inc. v. Postman*, No. 3:18-cv-06978-
22 EMC (N.D. Cal.).

23 8. To date, Lyft has not paid a single arbitration fee, and not a single arbitration has
24 commenced. AAA has said it will not invoice Lyft for the arbitrations filed on November 2, 2018,
25 and December 7, 2018, until Lyft pays its invoice from the October 26, 2018 demands.

26 9. Attached as Exhibit A is a true and correct copy of Lyft's Memorandum of Law in
27 Support of Its Motion to Compel Individual Arbitration and Dismiss Action in Case 1:15-cv-
28

001159-EDL, filed on April 17, 2015 in the United States District Court for the Northern District of California.

10. Attached as Exhibit B is a true and correct copy of AAA's letter to counsel, dated November 8, 2018.

11. Attached as Exhibit C is a true and correct copy of Lyft's letter to AAA, dated November 30, 2018.

12. Attached as Exhibit D is a true and correct copy of Petitioners' letter to AAA, dated December 6, 2018.

13. Attached as Exhibit E is a true and correct copy of AAA's email to counsel, dated December 7, 2018.

14. Attached as Exhibit F is a true and correct copy of Lyft's letter to AAA, dated December 11, 2018.

15. Attached as Exhibit G is a true and correct copy of Petitioners' letter to AAA, dated December 12, 2018.

16. Attached as Exhibit H is a true and correct copy of Petitioners' Arbitration Demand for California Drivers, dated October 26, 2018. The other demands filed on November 2, 2018, and December 7, 2018, referred to in paragraph 5, are materially identical.

17. Attached as Exhibit I is a true and correct copy of Petitioners' Arbitration Demand for Massachusetts Drivers, dated October 26, 2018. The other demands filed on November 2, 2018, and December 7, 2018, referred to in paragraph 5, are materially identical.

18. I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on December 13, 2018

/s/ Tom Kayes

By: Tom Kayes

CERTIFICATE OF SERVICE

I certify that I shall cause the foregoing document to be served on Lyft, Inc. at its headquarters at 185 Berry Street, Suite 5000, San Francisco, California 94107.

Dated: December 13, 2018.

/s/ Keith A. Custis